

FILED

UNITED STATES COURT OF APPEALS

SEP 12 2008

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

WAYNE BERRY, a Hawaii citizen,

Plaintiff - Appellant,

v.

MARK DILLON; et al.,

Defendants - Appellees.

No. 06-16199

D.C. No. CV-03-00385-SOM

District of Hawaii,

Honolulu

WAYNE BERRY, a Hawaii citizen,

Plaintiff - Appellant,

v.

MARK DILLON; et al.,

Defendants - Appellees.

No. 07-15447

D.C. No. CV-03-00385-SOM

District of Hawaii,

Honolulu

WAYNE BERRY, a Hawaii citizen,

Plaintiff - Appellee,

v.

MARK DILLON; et al.,

Defendants - Appellants,

MELVIN PONCE, Hawaii citizen; et al.,

No. 07-15587

D.C. No. CV-03-00385-SOM

District of Hawaii,

Honolulu

Defendants - Appellants,

and

FLEMING COMPANIES, INC., an
Oklahoma Corporation; et al.,

Defendants,

GUIDANCE SOFTWARE, LLC, a
California LLC; et al.,

Defendants.

WAYNE BERRY, a Hawaii citizen,

Plaintiff - Appellee,

v.

MARK DILLON; et al.,

Defendants,

SONIA PURDY, Hawaii citizen; et al.,

Defendants,

and

POST-CONFIRMATION TRUST,

Defendant - Appellant.

No. 07-15588

D.C. No. CV03-00385-SOM
District of Hawaii,
Honolulu

ORDER

Before: Peter L. Shaw, Appellate Commissioner

Nos. 06-16199, 07-15447, 07-15587, 07-15588

The court awarded attorneys' fees on appeal pursuant to 17 U.S.C. § 505 to defendants-appellees (1) Post Confirmation Trust; (2) C&S Wholesale Grocers, Inc., C&S Acquisition LLC, C&S Logistics LLC, ES3 LLC, and Richard Cohen; and (3) Guidance Software, Inc., and Michael Gurzi.

The court dismissed as untimely defendants-appellees Brian Christensen, Mark Dillon, Teresa Noa, Justin Fukumoto, Melvin Ponce, Sonia Purdy, Alfreda Waiolama, and Jacqueline Rio's motion for attorneys' fees.

The court denied Post Confirmation Trust's motion for double attorneys' fees pursuant to Rule 38 of the Federal Rules of Appellate Procedure.

The court referred to the Appellate Commissioner the determination of an appropriate amount of fees on appeal. *See* 9th Cir. R. 39-1.9.

The question of the appropriate amount of fees on appeal is referred to the Circuit Mediator, who will contact the parties. The Circuit Mediator is requested to inform the Appellate Commissioner of the conclusion of the mediation.